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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

ROMANIA

1. The Committee considered the third periodic report of Romania (CCPR/C/58/Add.15) at its 1284th, 1285th and 1286th meetings, held on 1 and 2 November 1993, and adopted[1] the following comments:

A. Introduction

2. The Committee welcomes the third periodic report of Romania and expresses its appreciation for the detailed and comprehensive information contained therein, particularly with regard to the many legislative developments which have recently taken place. In particular, the Committee expresses its appreciation to the delegation for the additional detailed information it presented to the members of the Committee in response to their questions and comments. The frankness of the report and the openness displayed by the delegation facilitated a most constructive and encouraging dialogue with the State party.

B. Factors and difficulties affecting the application of the Covenant

3. The Committee notes with concern the legacy of the totalitarian past in Romania, during which time serious and systemic violations of human rights occurred. In this respect, the Committee notes, in particular, that some political and social attitudes still prevalent and generally tolerated in the country are not conducive to the promotion and protection of human rights.

[1]At its 1289th meeting, held on 4 November 1993

C. Positive aspects

4. The Committee welcomes the many recent developments in Romania which represent significant progress in the transition toward democracy and pluralism. In general, the Committee is encouraged by the provisions of the new Constitution and the firm legal basis it provides for a democratic order. In particular, the Committee expresses satisfaction that the Covenant and other international human rights instruments have been incorporated into domestic law and that they appear to occupy a superior position within the legal hierarchy.

5. The Committee notes with appreciation the political reforms undertaken in Romania and the establishment of democratic institutions. The efforts to undertake a thorough legal reform have already yielded many accomplishments, particularly with respect to the new law on the judiciary, reforms in the Penal Code and Penal Procedure and the prospective repeal of certain discriminatory laws such as those which had victimized homosexuals.

6. The Committee welcomes the abolition of the death penalty and the adherence of Romania to the Second Optional Protocol. It also appreciates Romania's recent accession to the First Optional Protocol recognizing the competence of the Committee to receive complaints from individuals alleging a violation of their rights under the Covenant.

7. The Committee also welcomes the openness of the Government in affirming the multicultural nature of Romanian society and the efforts that have been made to engage the participation of minorities in public life.

D. Principal subjects of concern

8. The Committee is concerned that the legal framework may not be in full conformity with the Covenant, particularly in that the general restriction of rights under article 49 of the Constitution is much broader than what is allowed under the Covenant.

9. The Committee expresses concern at the continuing problems in Romania regarding discrimination against persons belonging to minorities and, in particular, offences committed as a result of incitement to ethnic or religious intolerance. This situation is especially threatening to vulnerable groups, such as the Roma (gypsies). The Committee is concerned that the Government has not been sufficiently active in combating such discrimination or effectively countering incidents of violence committed against members of minority groups.

10. The Committee is concerned over abuses committed by the police, such as forcible entry into homes, failure to inform detainees of their rights and ill-treatment of prisoners. In this regard, the Committee notes that the number of investigations, charges and convictions are extremely few compared with the number of complaints received or abuses

reported; that penalties prescribed by law are not commensurate with the gravity of the crimes committed; and that compensation to the victims of abuses is not always forthcoming, all of which contribute to an atmosphere of impunity. This situation is particularly alarming in view of the way it undermines harmonious relations with minorities, thus leading to ethnic marginalization and escalation of violence.

11. The Committee notes with regret the decrease in the participation of women in public life and in their employment and opportunities in recent years. The increasing rate of infant mortality is also a matter for concern.

12. The Committee also expresses concern that the full independence of the judiciary has been not yet been ensured. In this connection, the continuing powers of the Ministry of Justice over judicial decisions and the power to remove judges creates a situation which greatly undermines the independence of the judiciary.

E. Suggestions and recommendations

13. The Committee emphasizes that continuing review is needed to ensure that all relevant laws, regulations and administrative procedures conform to the provisions of the Covenant. In this regard, relevant draft legislation under active consideration should also be in strict compliance with the obligations of Romania under the Covenant. This is especially important in regard to the exercise of freedom of expression since restrictions under article 49 of the Constitution are significantly wider in scope than those permitted under article 19 of the Covenant. The Committee recommends that legal reforms be closely followed by effective changes in practice, particularly in regard to administrative regulations and procedures.

14. The Committee recommends that further measures be taken to protect persons belonging to minority groups and to enable them to exercise their rights under the Covenant, including participation at all levels in public institutions. The Committee also recommends that the Government take more active steps to combat racist and xenophobic attitudes and promote tolerance and understanding among the various ethnic, religious and national groups in Romania. In this connection, a positive approach should be taken to counter negative attitudes in the media which are likely to reinforce racist attitudes among the public, particularly in regard to the Roma.

15. The Committee emphasizes the need for greater control over the police, particularly in the context of the recent authoritarian past from which Romanian society is emerging. Determined and continuing efforts need to be undertaken to ensure that there is no element of racism in law enforcement, either in practice or in public perception. Further progress should be achieved in fully returning the police to civilian control. There should be intensive training and education programmes aimed at law enforcement officials as well as a determined effort to

ensure adequate minority representation in the police force. Steps should also be taken to strengthen recourse procedures for victims of police abuse and ensure adequate follow-up to reports of abuse by thorough investigation and by applying criminal rather than merely administrative sanctions against offenders.

16. The Committee emphasizes the need for the Government to take positive measures to strengthen the situation of women and children, particularly with respect to participation in public life, equal opportunities to employment and remuneration and equal rights and responsibilities in the family. The Committee also recommends that measures be taken to reduce infant mortality.

17. With regard to the independence of the judiciary, the Committee recommends that steps be taken to speed up the reform process and end the present monitoring powers of the Ministry of Justice. Further vigorous efforts should be made to encourage a culture of independence among the judiciary itself.

18. The Committee underlines the need for the Government to take a more active approach in overcoming public attitudes which hamper the effective implementation of human rights standards. Public information and education activities need to be strengthened so that the general public may be better acquainted with the provisions of the Covenant and the steps taken to apply it in practice. In this connection, greater use could be made of non-governmental organizations and the media.